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9 *Companies, Inc. and Lowe's Home*  
*Centers, LLC*

10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 OMAR MASRY, an individual; ELLIOT  
13 MASS, an individual, on behalf of  
14 themselves and all others similarly  
situated,

15 Plaintiffs,

16 v.

17  
18 LOWE'S COMPANIES, INC. a North  
19 Carolina corporation; LOWE'S HOME  
20 CENTERS, LLC, a North Carolina  
21 limited liability company; and DOES 1  
through 100, inclusive,

22 Defendants.  
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25  
26  
27  
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Case No. \_\_\_\_\_

**DEFENDANTS' NOTICE OF  
REMOVAL OF CIVIL ACTION  
PURSUANT TO 28 U.S.C. §§ 1332,  
1441 and 1446**

Complaint Filed: November 21, 2023  
(Alameda County Superior Court Case  
No. 23CV057098)

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT, ALL PARTIES,**  
 2 **AND THEIR ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that Defendants Lowe’s Companies, Inc. and  
 4 Lowe’s Home Centers, LLC (“Defendants”) hereby remove the above-captioned  
 5 action from the Superior Court of the State of California for the County of Alameda  
 6 to the United States District Court for the Northern District of California, San  
 7 Francisco Division, pursuant to 28 U.S.C. §§ 1441 and 1446, asserting original federal  
 8 jurisdiction on the basis of diversity under 28 U.S.C. § 1332(d)(2). This Court has  
 9 original jurisdiction over this action as an alleged class action in which “any member  
 10 of a class of plaintiffs is a citizen of a State different from any defendant” and in which  
 11 “the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of  
 12 interest and costs.” 28 U.S.C. § 1332(d)(2).

### 13 **PROCEDURAL BACKGROUND**

14 1. On November 21, 2023, Plaintiffs Omar Masry and Elliot Mass  
 15 (“Plaintiffs”) filed this civil action in the Superior Court of the State of California,  
 16 County of Alameda, captioned *Masry, et al. v. Lowe’s Companies, Inc., et al.*, Case  
 17 No. 23CV057098 (the “State Court Action”). A true and correct copy of the  
 18 Complaint is attached as **Exhibit 1**.

19 2. On February 7, 2024, Defendants filed their First Removal Petition to  
 20 remove the State Court Action to the Northern District of California, San Francisco  
 21 Division, Case No. 3:24-cv-00750-CRB, on the basis of the Class Action Fairness  
 22 Act (“CAFA”), 28 U.S.C. § 1332(d). A true and correct copy of the First Removal  
 23 Petition is attached as **Exhibit 2**.

24 3. On March 13, 2024, Defendants filed a Motion to Dismiss on several  
 25 grounds, including failure to state a claim. A true and correct copy of the Motion to  
 26 Dismiss is attached as **Exhibit 3**. On June 28, 2024, the Court granted Defendants’  
 27 First Motion to Dismiss for Failure to State a Claim and allowed Plaintiffs leave to  
 28

1 amend. A true and correct copy of the Order Granting Defendants’ Motion to Dismiss  
2 for Failure to State a Claim is attached as **Exhibit 4.**

3 4. On July 19, 2024, Plaintiffs filed an Amended Complaint, a true and  
4 correct copy of which is attached as **Exhibit 5.** On August 2, 2024, Defendants filed  
5 a Motion to Dismiss the Plaintiffs’ Amended Complaint, a true and correct copy of  
6 which is attached as **Exhibit 6.**

7 5. On August 6, 2024, Plaintiffs filed a Motion to Remand on the grounds  
8 that Defendants had failed to meet their burden of demonstrating that Plaintiffs had  
9 suffered an injury-in-fact necessary to establish Article III standing. *See* Mot. to  
10 Remand to State Ct. Pursuant to 28 U.S.C. § 1447; Mem. of P. & A. at 6, *Masry et*  
11 *al. v. Lowe’s Companies, Inc. et al.*, No. 3:24-cv-00750 (N.D. Cal. Aug. 6, 2024)  
12 (No. 33). A true and correct copy of the Motion to Remand is attached as **Exhibit 7.**

13 6. On November 7, 2024, the Court granted Plaintiffs’ Motion to Remand,  
14 finding that “Plaintiffs lack[ed] Article III standing because they fail[ed] to establish  
15 an injury in fact.” Ord. Granting Pls.’ Mot. to Remand and Den. as Moot Defs.’ Mot.  
16 to Dismiss 2, *Masry et al. v. Lowe’s Companies, Inc. et al.*, No. 3:24-cv-00750 (N.D.  
17 Cal. Nov. 11, 2024) (No. 44). The Court specifically noted that the Amended  
18 Complaint contained “no factual allegations that Plaintiffs are engaging in self-  
19 censorship out of fear of violating the Terms.” *Id.* at 4. A true and correct copy of the  
20 Order Granting Plaintiff’s Motion to Remand and Denying as Moot Defendants’  
21 Motion to Dismiss is attached as **Exhibit 8.** A true and correct copy of the federal  
22 court docket as of March 31, 2025, is attached as **Exhibit 9.**

23 7. In the State Court Action, on February 28, 2025, Plaintiffs filed a First  
24 Amended Complaint (the “FAC”) that contained new allegations that the defendants’  
25 alleged conduct “foreseeably caus[ed] unlawful self-censorship of Plaintiffs and  
26 other Lowe’s customers.” (FAC ¶ 11.) Plaintiffs assert a claim for alleged violations  
27 of California Civil Code Section 1670.8 and seek to bring a “class action on their own  
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1 behalf and on the behalf of all other similarly situated consumers in California.” (FAC  
2 ¶ 34.)

3 8. Defendants were served with a copy of the FAC on February 28, 2025.  
4 True and correct copies of Plaintiffs’ FAC and proof of service are attached as  
5 **Exhibit 10**. A true and correct copy of the docket from the State Court Action as of  
6 March 31, 2025, is attached as **Exhibit 11**.

### 7 **COMPLIANCE WITH 28 U.S.C. § 1446**

8 9. Exhibits 1–11 comprise “cop[ies] of all process, pleadings, and orders  
9 served upon such defendant or defendants in such action,” in accordance with 28  
10 U.S.C. § 1446(a).

11 10. Defendants will file a copy of this Notice of Removal (“Notice”) with  
12 the clerk of the Superior Court of the State of California, County of Alameda,  
13 pursuant to 28 U.S.C. § 1446(d).

### 14 **SUCCESSIVE REMOVAL**

15 11. This petition is a proper successive notice of removal. The FAC’s new  
16 allegations of self-censorship constitute a change in factual circumstance that permits  
17 a successive notice of removal because they are sufficient to establish an injury-in-  
18 fact to support Article III standing. The Court previously issued its Order Granting  
19 Plaintiffs’ Motion for Remand and Denying as Moot Defendants’ Motion to Dismiss,  
20 attached as Exhibit 8, because Plaintiffs’ Amended Complaint did not sufficiently  
21 establish Article III standing. *See* Ord. Granting Pls.’ Mot. to Remand and Den. as  
22 Moot Defs.’ Mot. to Dismiss 2, *Masry et al. v. Lowe’s Companies, Inc. et al.*, No.  
23 3:24-cv-00750 (N.D. Cal. Nov. 11, 2024) (No. 44) (“Plaintiffs lack[ed] Article III  
24 standing because they fail[ed] to establish an injury in fact.”).

25 12. Successive notices of removal are permitted where there has been “a  
26 relevant change of circumstances—that is, when subsequent pleadings or events  
27 reveal a new and different ground for removal.” *Reyes v. Dollar Tree Stores, Inc.*,  
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1 781 F.3d 1185, 1188 (9th Cir. 2015) (emphasis and internal quotation marks  
2 omitted). “Where a court has previously remanded a removed action for a  
3 defendant’s failure to meet its burden, successive notices of removal ... generally  
4 must be based on information not available at the prior removal.” *Sweet v. United*  
5 *Parcel Serv., Inc.*, No. 2:09-cv-02653, 2009 WL 1664644, at \*3 (C.D. Cal. June 15,  
6 2009). Subsequent removal petitions “must be on grounds, either factual or legal,  
7 that are different from those asserted in the first removal.” *Robin Invs., Inc. v.*  
8 *Shkolnik*, No. 2:13-cv-04136, 2013 WL 12114446, at \*2-3 (C.D. Cal. July 13, 2013).

9 13. Plaintiffs amended their pleadings to include allegations that  
10 Defendants’ actions have “foreseeably caus[ed] unlawful self-censorship of  
11 Plaintiffs and other Lowe’s customers.” (FAC ¶ 11.) They allege that they “believe  
12 that their ability to make statements about Lowe’s has been limited as a result of  
13 Lowe’s’ threats to enforce the unlawful provisions contained in its Terms” and that  
14 “certain customers muzzled themselves through self-censorship, ... the exact  
15 dynamic that Section 1670.8 is intended to remedy.” *Id.* According to Plaintiffs,  
16 Defendants’ alleged censorship extends beyond the Lowe’s website by  
17 “restrict[ing] what Plaintiffs and other consumers are allowed to say on a variety of  
18 other social media platforms.” *Id.* at ¶ 28.

19 14. These new factual allegations of self-censorship are constitutionally  
20 sufficient to establish an injury-in-fact for Article III standing. *See, e.g., Tingley v.*  
21 *Ferguson* (9th Cir. 2022) 47 F.4th 1055, 1067 (“We have held that ‘a chilling of the  
22 exercise of First Amendment rights is, itself, a constitutionally sufficient injury.’”);  
23 *Libertarian Party of Los Angeles Cnty. v. Bowen*, 709 F.3d 867, 870 (9th Cir. 2013)  
24 (same).

25 15. These new allegations of self-censorship were unavailable at the time  
26 of the first removal. The District Court previously determined that there was no  
27 Article III standing, in part, because the Amended Complaint contained “no factual  
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1 allegations that Plaintiffs are engaging in self-censorship out of fear of violating the  
 2 Terms.” Ord. Granting Pls.’ Mot. to Remand and Den. as Moot Defs.’ Mot. to  
 3 Dismiss 4, *Masry et al. v. Lowe’s Companies, Inc. et al.*, No. 3:24-cv-00750 (N.D.  
 4 Cal. Nov. 11, 2024) (No. 44). Now that Plaintiffs have included new allegations of  
 5 their injury, Article III standing exists and removal is proper.

6 16. This petition thus constitutes a proper successive notice of removal.

### 7 **TIMELINESS OF REMOVAL**

8 17. This Notice is timely under 28 U.S.C. § 1446(b)(3). Defendants were  
 9 served with Plaintiffs’ FAC on February 28, 2025, and the 30th day after February  
 10 28, 2025 falls on March 31, 2025.

### 11 **VENUE AND JURISDICTION**

12 18. The State Court Action is being removed from the Superior Court of the  
 13 State of California, County of Alameda. As such, venue lies in the Northern District  
 14 of California, San Francisco Division pursuant to 28 U.S.C. §§ 1441 and 1446(a).

15 19. Defendants seek removal of this action under CAFA, 28 U.S.C. §  
 16 1332(d). CAFA grants district courts original jurisdiction over alleged class actions  
 17 in which “any member of a class of plaintiffs is a citizen of a State different from any  
 18 defendant” and in which “the matter in controversy exceeds the sum or value of  
 19 \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(2). As set forth  
 20 below, this action satisfies each element of Section 1332(d)(2) for jurisdiction under  
 21 CAFA.

22 20. Additionally, jurisdiction in this Court is also proper because Plaintiffs  
 23 have adequately alleged Article III standing with the new injury allegations added in  
 24 the FAC.

### 25 **GROUND FOR REMOVAL**

26 21. A defendant may remove an action from state court if the federal district  
 27 court has original jurisdiction over the action. 28 U.S.C. § 1441(a).

22. This Court has original jurisdiction over this action under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d). CAFA vests federal district courts with original jurisdiction over any class action in which (i) “the number of members of all proposed plaintiff classes in the aggregate is [not] less than 100,” (ii) “any member of a class of plaintiffs is a citizen of a State different from any defendant”; and (iii) “the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d). Each of these requirements are met in the instant Notice.

23. The notice of removal need not prove subject matter jurisdiction; rather it must contain “plausible allegations of the jurisdictional elements.” *Academy of Country Music v. Cont’l Casualty Co.*, 991 F.3d 1059, 1068 (9th Cir. 2021); *see also Arias v. Residence Inn by Marriott*, 936 F.3d 920, 922 (9th Cir. 2019) (holding that “a removing defendant’s notice of removal ‘need not contain evidentiary submissions,’ but only plausible allegations of the jurisdictional elements.”); As such, simply because it is the removing party’s burden to demonstrate that the district court has jurisdiction, it “does not mean that the notice of removal must in and of itself meet this burden.” *Academy*, 991 F.3d at 1068.

### **The State Court Action is a Putative Class Action under CAFA**

24. Original jurisdiction under CAFA applies to any civil action that “is a class action.” 28 U.S.C. § 1332(d)(2). A “class action” means “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B).

25. Plaintiffs bring their action as a class action “[p]ursuant to California Code of Civil Procedure section 382 ... .” (FAC ¶ 34.) Section 382 is the California state analog to Federal Rule of Civil Procedure 23. *See Huckleby v. Manpower, Inc.*, 2010 WL 11552970, at \*3 n.1 (C.D. Cal. Sept. 7, 2010). This action is therefore a putative class action removable under CAFA under 28 U.S.C. § 1332(d)(2).



### **The Alleged Class Is Sufficiently Numerous**

26. Under 28 U.S.C. § 1332(d)(5)(B), the number of members of all proposed plaintiff classes must equal or exceed 100 in the aggregate for the action to be removable.

27. Plaintiffs here define the class as covering, “[d]uring the fullest period allowed by law, all persons residing in California who completed at least one sales transaction with Defendants via the Sites[,]” and allege that the “members of the Class number in the tens or hundreds of thousands” with “millions more similarly situated persons in the State of California.” (FAC ¶¶ 33, 34(a), 38.) The proposed class is thus sufficiently numerous under 28 U.S.C. § 1332(d)(5)(B).

### **The Requisite Diversity Exists**

28. A putative class action is removable if “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A).

29. Plaintiff Masry alleges that “[a]t all relevant times, [he] was and has been a citizen of the State of California ... .” (FAC ¶ 16.) Plaintiff Mass alleges that, “[a]t all relevant times, [he] was and has been a citizen of the State of California.” (*Id.* at ¶ 17.) Plaintiff Johnson alleges that, “[a]t all relevant times, [she] was and has been a citizen of the State of California.” (*Id.* at ¶ 18.) Plaintiff Hoffmeyer alleges that, “[a]t all relevant times, [she] was and has been a citizen of the State of California.” (*Id.* at ¶ 19.) Plaintiff Harrison alleges that, “[a]t all relevant times, [he] was and has been a citizen of the State of California.” (*Id.* at ¶ 20.) Plaintiff Albrigo alleges that, “[a]t all relevant times, [she] was and has been a citizen of the State of California.” (*Id.* at ¶ 21.)

30. Plaintiffs bring this putative “class action on their own behalf and on behalf of all other similarly situated consumers in California.” (*Id.* at ¶ 34.)

31. Defendant Lowe’s Companies, Inc. is incorporated in the State of North Carolina and has its principal place of business in the State of North Carolina. (*See*



1 **Exhibit 12.**) Accordingly, for CAFA diversity purposes, Lowe’s Companies is a  
 2 citizen of North Carolina. *See* 28 U.S.C. § 1332(c)(1).

3 32. Similarly, Defendant Lowe’s Home Centers, LLC is a limited liability  
 4 company organized and existing under the laws of the State of North Carolina.  
 5 Lowe’s Home Centers, LLC’s principal place of business is also in North Carolina.  
 6 (*See* **Exhibit 13.**) Accordingly, for CAFA diversity purposes, Lowe’s Home Centers,  
 7 LLC is a citizen of North Carolina. *See* 28 U.S.C. § 1332(d)(10).

8 33. Since the citizenship of at least one class member in the proposed class  
 9 of California consumers is different from Lowe’s Companies, Inc. and Lowe’s Home  
 10 Centers, LLC, diversity exists under CAFA.

### 11 **The Amount in Controversy Exceeds \$5,000,000**

12 34. For purposes of removal only, and without waiving any of its defenses,  
 13 Defendants state that this action meets CAFA’s amount-in-controversy  
 14 requirement. Under CAFA, “the claims of the individual class members shall be  
 15 aggregated to determine whether the matter in controversy exceeds the sum or  
 16 value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. §§ 1332(d)(6).

17 35. When a complaint does not specify an amount in controversy, the  
 18 court may consider the facts alleged in the complaint as well as in the notice of  
 19 removal. *See Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 376 (9th Cir.  
 20 1997). When courts “assess the amount in controversy . . . [they] must include all  
 21 relief to which a plaintiff is entitled if the action succeeds.” *Fritsch v. Swift Trans.*  
 22 *Co. of Arizona, LLC*, 899 F.3d 785, 794 (9th Cir. 2018). Thus, in determining whether  
 23 the amount in controversy has been met, the Court must presume the plaintiff will  
 24 prevail on all its claims. *See Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*,  
 25 199 F.Supp.2d 993, 1001 (C.D. Cal. 2002). “[D]efendants do not need to prove to  
 26 a legal certainty that the amount in controversy requirement has been met[,] . . .

1 defendants may simply allege or assert that the jurisdictional threshold has been  
2 met.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 88 (2014).

3 36. Plaintiffs “seek civil penalties, injunctive relief, including public  
4 injunctive relief, and other relief necessitated by Defendants’ unlawful actions,” in  
5 addition to pre- and post- judgment interest, and attorneys’ fees and costs. (*See* FAC  
6 ¶ 3, Prayer for Relief.) Violators of California Civil Code Section 1670.8 are  
7 subject to a \$2,500 fine for the first violation, and a \$5,000 fine for any subsequent  
8 violation(s). *See* Cal. Civ. Code § 1670.8(c). Additionally, “where an underlying  
9 statute authorizes an award of attorneys’ fees . . . such fees may be included in  
10 the amount in controversy.” *Galt G/S v. JSS Scandanavia*, 142 F.3d 1150, 1156  
11 (9th Cir. 1998).

12 37. While Defendants vigorously deny any liability to Plaintiffs and/or the  
13 putative class, the allegations in the Complaint satisfy the amount in controversy  
14 requirement because Plaintiffs allege that Defendants are subject to thousands of  
15 dollars in liability for each of the “tens or hundreds of thousands” or possibly  
16 “millions” of class members whose rights under Section 1670.8 are alleged to have  
17 been violated at least once.

18 38. In all, Plaintiff’s claimed relief is above the statutory threshold and  
19 original jurisdiction under CAFA has been established.

### 20 **ARTICLE III STANDING**

21 39. Federal jurisdiction is proper because Plaintiffs have adequately alleged  
22 Article III standing in the FAC.

23 40. “To establish standing, a plaintiff must show: (1) she suffered an ‘injury  
24 in fact,’ which is an ‘actual or imminent’ invasion of a legally protected interest that  
25 is ‘concrete and particularized’; (2) the injury must be ‘fairly traceable’ to the  
26 challenged conduct of the defendant; and (3) it must be likely that the plaintiff’s injury  
27  
28

1 will be redressed by a favorable judicial decision.” *Italian Colors Restaurant v.*  
2 *Becerra*, 878 F.3d 1165, 1171 (9th Cir. 2018).

3 41. Under a “relaxed standing analysis” applicable to speech rights  
4 protected by the First Amendment in the pre-enforcement context, “plaintiffs must  
5 ... show an actual or imminent injury to a legally protected interest.” *Lopez v.*  
6 *Candaele*, 630 F.3d 775, 785 (9th Cir. 2010). Courts consider three factors when  
7 determining whether a Plaintiff faces a “credible threat of enforcement”: “1) the  
8 likelihood that the law will be enforced against the plaintiff; 2) whether the plaintiff  
9 has shown, ‘with some degree of concrete detail,’ that she intends to violate the  
10 challenged law; and 3) whether the law even applies to the plaintiff.” *Italian Colors*  
11 *Restaurant*, 878 F.3d at 1172.

12 42. Courts have found that “a chilling of the exercise of First Amendment  
13 rights is, itself, a constitutionally sufficient injury.” *Libertarian Party of Los Angeles*  
14 *Cnty.*, 709 F.3d at 870. There is actual harm where the danger alleged is “one of self-  
15 censorship; a harm that can be realized even without an actual prosecution.” *Arizona*  
16 *Right to Life Political Action Committee v. Bayless* 320 F.3d 1002, 1006 (9th Cir.  
17 2003).

18 43. Here, Plaintiffs have amended their complaint to include new  
19 allegations of actual harm in self-censorship. They allege Defendants’ actions have  
20 “foreseeably caus[ed] unlawful self-censorship of Plaintiffs and other Lowe’s  
21 customers.” (FAC ¶ 11.) They further allege that they “believe that their ability to  
22 make statements about Lowe’s has been limited as a result of Lowe’s’ threats to  
23 enforce the unlawful provisions contained in its Terms” and that “certain customers  
24 muzzled themselves through self-censorship, ... the exact dynamic that Section  
25 1670.8 is intended to remedy.” *Id.* According to Plaintiffs, Defendants’ alleged  
26 censorship extends beyond the Lowe’s website by “restrict[ing] what Plaintiffs and  
27 other consumers are allowed to say on a variety of other social media platforms.”  
28

1 *Id.* at ¶ 28. Through their new allegations of self-censorship, Plaintiffs demonstrate  
2 an actual harm and their intent to violate the Terms and Conditions of Use,  
3 substantiating a credible threat of enforcement.

4 44. Plaintiffs further allege a credible threat of enforcement by repeatedly  
5 asserting Defendants’ alleged actual threats of enforcement and the resultant chilling  
6 effect. *See Id.* at ¶¶ 7, 11, 12, 28, 29, 56. In other Section 1670.8 litigation, at least  
7 one district court in the Central District of California has found that similar threats of  
8 enforcement coupled with allegations of chilling and self-censorship is sufficient to  
9 establish a credible threat of enforcement and an injury in fact for Article III standing.  
10 *See Ramos v. Amazon.com, Inc.*, No. 2:24-CV-00089, 2024 WL 4882638, at \*3 (C.D.  
11 Cal., Nov. 25, 2024).

12 45. Plaintiffs have thus demonstrated a credible threat of enforcement  
13 sufficient to establish the injury in fact requirement for Article III standing.  
14 Additionally, the injury itself is fairly traceable to Defendants’ conduct because it is  
15 alleged to have been caused by the non-disparagement term and Defendants’ threats  
16 of enforcement. (*See* FAC ¶ 11 (Defendants’ actions have “foreseeably caus[ed]  
17 unlawful self-censorship of Plaintiffs and other Lowe’s customers.”)). A favorable  
18 judicial decision for Plaintiffs would result in civil and injunctive relief designed to  
19 redress the alleged existing First Amendment harm and prevent any future harm.

20 46. As such, Article III standing has been established by Plaintiffs’ new  
21 allegations in the FAC.

## 22 **CONCLUSION**

23 47. In sum, the controversy here is a putative class action under CAFA, the  
24 class is comprised of more than 100 members, at least one member of the proposed  
25 class is a citizen of a different state from Defendants, and the amount in controversy  
26 exceeds \$5 million. Thus, the Federal Court has subject matter jurisdiction over  
27 Plaintiff’s class action claims and removal is appropriate under 28 U.S.C. § 1332(d).  
28

48. For the reasons above, Defendants respectfully request that the State Court Action now pending in Superior Court of the State of California in and for the County of Alameda be removed to this Court. In the event any question arises as to the propriety of the removal of the State Court Action, Defendants request that the Court issue an Order to Show Cause so that they may have an opportunity to present briefing and oral argument in further support of their position.

49. In accordance with 28 U.S.C. § 1446(d), the undersigned counsel certifies that a copy of this Notice of Removal and all supporting papers will be promptly served on Plaintiff's counsel and filed with the Clerk for the Superior Court of the State of California in and for the County of Alameda.

WHEREFORE, for all of the foregoing reasons, Defendants hereby remove the State Court Action now pending in the Superior Court of the State of California, County of Alameda, to the United States District Court for the Northern District of California.

DATED: March 31, 2025

Respectfully Submitted,

**POLSINELLI LLP**

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